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To kmurray@chapman.com

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bcc

Subject Richardson - proposed FA language

Kevin,

Here's our proposed language concerning modification of amount of financial assurance, which would replace paragraph 47(a) in the last version:

1. Modification of Amount and/or Form of Performance Guarantee

a) Reduction of Amount of Performance Guarantee. On November 1, 2007, and on November 1 of each year thereafter, Settling Defendant may petition EPA in writing to request a reduction in the amount of the Performance Guarantee(s) provided pursuant to this Section on the basis that it has completed one or more Work Milestones. This request shall identify the Work Milestones that Settling Defendant believes it has completed and shall contain sufficient information to allow EPA to verify the claim. For each Work Milestone that EPA determines has been completed, EPA shall allow Settling Defendant to reduce the amount of the Performance Guarantee(s) required by this Section by the corresponding budgeted cost set forth in the RD/RA Work Plan for that Work Milestone. EPA's agreement pursuant to this provision that a Work Milestone has been completed shall be for the sole purpose of reducing the amount of the Performance Guarantee(s) that Settling Defendant must maintain under this section. In seeking approval for a revised or alternative form of Performance Guarantee, Settling Defendant shall follow the procedures set forth in Paragraph 47(b) of this Consent Decree. If EPA decides to accept such a proposal, EPA shall notify the Settling Defendant of such decision in writing. After receiving EPA's written acceptance, Settling Defendant may reduce the amount of the Performance Guarantee(s) in accordance with and to the extent permitted by such written acceptance. In the event of a dispute, Settling Defendant may reduce the amount of the Performance Guarantee required hereunder only in accordance with a final administrative or judicial decision resolving such dispute. No change to the form or terms of any Performance Guarantee provided under this Section, other than a reduction in amount, is authorized except as provided in Paragraph 47(b) of this Consent Decree.

We've also made a few slight revisions in definition section to reflect that we are taking the SOW route rather than going with a pre-approved RD/RA work plan.

If this looks ok to you, we will be routing decree through our respective managements for comment, so that it can go to you for signature.

Thanks,

Mark